

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| THE UNITED STATES OF AMERICA, | ) |                                    |
|                               | ) |                                    |
| Plaintiff,                    | ) |                                    |
|                               | ) |                                    |
| v.                            | ) | Civil Action No. 2:05-CV-04391-NKL |
|                               | ) |                                    |
| THE STATE OF MISSOURI;        | ) |                                    |
| ROBIN CARNAHAN,               | ) |                                    |
| MISSOURI SECRETARY OF STATE,  | ) |                                    |
| in her official capacity;     | ) |                                    |
|                               | ) |                                    |
| Defendants.                   | ) |                                    |
| <hr/>                         |   |                                    |

**PLAINTIFF'S UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL**

Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, the United States respectfully requests that the Court approve and order the attached Stipulation and Order of Dismissal dismissing this action and requiring each party to bear its own costs. The Defendants have consented to the attached Stipulation and Order, and will not oppose this motion.

1. The United States filed the complaint in this action on November 22, 2005.
2. The complaint alleged that defendants the State of Missouri and the Missouri Secretary of State, in her official capacity, were not complying with Section 8 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. § 1973gg-6. In particular, the complaint alleged that the defendants had failed to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters,” where those voters had died or changed residence. 42 U.S.C. § 1973gg-6(a)(4). As a remedy, the United States sought an injunction compelling the defendants to comply with the NVRA.
3. To establish the lack of compliance alleged in its complaint, the United States

relied in part on evidence relating to the conduct or inactivity of Missouri's 116 local election authorities (LEAs).

4. Discovery in this action was closed on July 24, 2006.

5. Judgment for defendants was entered on April 13, 2007, and an appeal was taken by the United States.

6. On July 29, 2008, the United States Court of Appeals for the Eighth Circuit remanded this matter, directing the district court to "consider any lack of LEA compliance and determine whether any such noncompliance renders Missouri's effort to 'conduct a general program' unreasonable in removing the names of ineligible voters." *U.S. v. Missouri*, 535 F.3d 844, 851 (8th Cir. 2008). The Court of Appeals noted that "[o]n remand, the district court is not bound to reach a contrary conclusion" to the one it previously had found. *Id.*

7. On October 9, 2008, this Court denied the United States' motion to reopen discovery in this matter.

8. The United States now moves for a voluntary dismissal of this matter on the ground that events have overtaken this litigation. Discovery in this action closed more than two-and-one-half years ago, and the evidence in the record at that time may have limited applicability to current conditions in Missouri. As the United States would not seek an injunction on old or stale evidence, it hereby moves for this dismissal.

In light of the above, the United States respectfully moves this Court to approve and order the attached Stipulation and Order of Dismissal.

By:

/s/

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## **CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of March, 2009, I electronically filed the foregoing with the Clerk of the Court CM/ECF system, which sent notification of such filing to the following:

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